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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,973	08/27/2001	Thomas P. Webber	2442/104	4150
22200	7590	04/26/2005	EXAMINER	
PARK, VAUGHAN & FLEMING LLP 702 MARSHALL STREET SUITE 310 REDWOOD CITY, CA 94063			ABELSON, RONALD B	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/939,973

Applicant(s)

WEBBER, THOMAS P.

Examiner

Ronald Abelson

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 and 19 is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9 and 11 is/are rejected.
- 7) ☒ Claim(s) 3-7,10 and 12-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 2666

***Claim Rejections, - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 8, 9, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Michel (US 6,591,383).

Regarding claims 1 and 11, Michel teaches transmitting the first message (receive success blocks, col. 7 lines 55-58). Note if the blocks were received, then they must have been transmitted.

Michel teaches detecting a transmission error in the second message (col. 3 lines 15-17).

Michel teaches deferring the reporting of the transmission error in the second message, wherein, the deferring includes writing / classifying a record of the transmission error in the second message to a state saved for the flow (classifying, col. 3 lines 15-17, error result for each block recorded in memory, shift register, col. 8 lines 15-20).

Art Unit: 2666

Regarding claim 8, deferred error flag (memory, shift register, col. 8 lines 15-20) and a deferred error shift sequence number (shift register, col. 8 lines 15-20). The examiner corresponds the applicant's deferred error shift sequence number with the shift register location of the reference.

Regarding claim 2, saving a sequence number, in a state for the flow, for the message having the transmission error (memory, shift register, col. 8 lines 15-20).

Regarding claim 9, the deferred error flag is set (memory, shift register, col. 8 lines 15-20) and the deferred error sequence number is saved (shift register, col. 8 lines 15-20).

***Allowable Subject Matter***

3. Claims 18 and 19 are allowed.
4. Claims 3-7, 10, and 12-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 2666

Regarding claim 18, Michel teaches detecting a transmission error in the second message (col. 3 lines 15-17).

Michel teaches deferring the reporting of the transmission error in the second message (classifying, col. 3 lines 15-17, error result for each block recorded in memory, shift register, col. 8 lines 15-20).

However, nothing in the prior art of the record teaches or fairly suggests reporting the transmission error upon receiving a positive acknowledgement that completes a message in the flow that immediately precedes the message having the transmission error, in view of the teachings of Michel in combination with all the limitations listed in the claim.

Regarding claims 3 and 12, nothing in the prior art of the record teaches or fairly suggests processing the transmission error upon receiving an acknowledgement pertinent to an immediately preceding message, in view of the teachings of Michel in combination with all the limitations listed in the claim.

Regarding claim 10, nothing in the prior art of the record teaches or fairly the deferred error flag remains set when the requester receives a positive acknowledgement for a preceding

Art Unit: 2666

message, in view of the teachings of Michel in combination with all the limitations listed in the claim.

### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Abelson whose telephone number is (571) 272-3165. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/939,973

Page 6

Art Unit: 2666

*ra*

Ronald Abelson

Examiner

Art Unit 2666

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*[Signature]*

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4/21/05